

\$~33

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 2968/1996

BHUVNESH KRISHNA GUPTA

..... Plaintiff

Through : Mr. S. N. Kumar and Mr. K. B.
Singh, Advs.

versus

KRISHNA KUMAR GUPTA

..... Defendant

Through :

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

%

05.11.2015

I.A. No.23445/2015 (u/O 32 R 15 CPC)

Main prayer in this application appears to be of restoration of the suit.

Plaintiff had filed this suit for partition against the defendants in the year 1996. Suit was dismissed for non-prosecution on 22nd October, 1997.

I.A. No.10376/1997 was filed for restoration of the suit. However, this application was not pressed by the plaintiff, who was duly represented by his counsel. Accordingly, application was dismissed as withdrawn vide order dated 4th May, 1998, which reads as under:-

“Plaintiff has filed this application under Section 151 CPC inter alia alleging that suit filed for partition of immovable properties was dismissed for non-appearance of the plaintiff’s counsel and an application for restoration of the suit is pending before the court. Plaintiff is now convinced that he has no subsisting rights in any of the suit properties and, therefore, he does not wish to proceed with the

restoration of the suit. It is prayed that the application for restoration of the suit may be dismissed as withdrawn. Affidavit of the plaintiff has also been filed in support of the averments made in the application.

Sh. Soni confirms the statement made in the application and states that IA No.10376/97 filed under Order IX Rule 9 read with Section 151 CPC for restoration of the suit may be dismissed as withdrawn.

In view of the said statement, IA No.10376/97 is dismissed as withdrawn. Present IA is disposed of accordingly.”

After a lapse of seventeen years, plaintiff has filed this application for restoration of the suit on the ground that plaintiff was suffering from mental infirmity at the relevant period. Accordingly, application for restoration was not pressed. Suit was filed by the plaintiff, inasmuch as application for restoration was filed by the plaintiff, inasmuch as present application has also been filed by him. Application appears to have been filed as an afterthought after a lapse of seventeen years. .

Application is dismissed.

A.K. PATHAK, J.

NOVEMBER 05, 2015

dk